

(1) Would have permanently or temporarily disqualified the soldier for entry into the military service or entry on AD or ADT for initial entry training had it been detected at that time.

(2) Does not disqualify the soldier for retention in the military service per AR 40–501, chapter 3. As an exception, soldiers with existed prior to service (EPTS) conditions of pregnancy or HIV infection (AR 600–110) will be separated.

c. A soldier who is found after entry on active duty not to have been qualified under procurement medical fitness standards at the time of enlistment may request to be retained on active duty subject to the conditions listed below. Approval or disapproval of requests for retention under this paragraph is delegated to the separation authority cited in paragraph 1–19*d*. No soldier has a right to be retained under this paragraph. Soldiers not retained will be processed for separation. Soldiers will not be retained under this paragraph unless both conditions below are met:

(1) The separation authority cited in paragraph 1–19*d* determines, after considering the proceedings of an Entrance Physical Standards Board (see AR 40–400), that the soldier’s disqualifying condition will not prevent the soldier from performing satisfactorily throughout his/her period of enlistment in the MOS for which he/she is being trained or in another MOS based on the soldier’s medical condition.

(2) The soldier, after being counseled and given the opportunity to obtain legal advice, signs a statement requesting to complete the period of service for which enlisted.

d. The criteria in chapter 1, section VII, will govern whether the soldier will be released from AD, with transfer to the IRR, or discharged.

(1) In the case of an ARNGUS or USAR soldier found to be pregnant upon entry on IADT, the soldier will be released from active duty and returned to her ARNGUS or USAR unit for disposition in accordance with AR 135–91, paragraph 4–23.

(2) The soldier will be separated within 72 hours following approval by the separation authority. (See para 1–19. See para 1–11 for additional instructions on ARNGUS or USAR personnel.)

e. Soldiers who do not meet the medical fitness standards for retention will be processed per AR 635–40.

f. This paragraph is not to be used in personality disorders cases, which will be processed per paragraph 5–13.

g. For characterization of service or description of separation, see paragraph 5–1.

5–12. Discharge for failure after enlistment to qualify medically for flight training

Soldiers who enlist per AR 601–210 for the warrant officer flight training (WOFT) option and who, after enlistment, fail to qualify medically for flight training, may be discharged from the Army. The following conditions apply:

a. Eligibility for discharge will be based on a determination by the Commander, U.S. Army Aeromedical Center, Fort Rucker, AL 36362, that—

(1) The medical condition would permanently disqualify the soldier for flight training.

(2) The condition does not disqualify the soldier for retention in the military service per AR 40–501, chapter 3.

b. To be eligible for discharge under this paragraph, the soldier must submit a written request for discharge (see fig 5–1) to his/her unit commander. It must be submitted within 30 days of the date the Commander, U.S. Army Aeromedical Center, finds the soldier disqualified for flying.

c. Applications for discharge will be processed promptly and separations will be accomplished within 72 hours following approval by the discharge authority. (See para 1–19.)

d. Soldiers who do not meet retention medical fitness standards will be processed per AR 635–40.

e. This paragraph is not to be used for personality disorder cases, which will be processed per paragraph 5–13.

f. A soldier who meets the requirements of *a*, above, and elects to complete the period of service for which he/she enlisted, must submit a written request to be retained on AD. (See fig 5–2.) The request is submitted to the unit commander within 30 days of the date the Commander, U.S. Army Aeromedical Center, finds the soldier medically disqualified for flying.

g. The determination made by the Commander, U.S. Army Aeromedical Center, concerning the soldier’s request for discharge (see fig 5–1) or retention (see fig 5–2) and other pertinent papers will be filed in the soldier’s DA Form 201 as permanent material.

h. For characterization of service or description of separation, see paragraph 5–1.

5–13. Separation because of personality disorder

Under the guidance in chapter 1, section II, a soldier may be separated for personality disorder (not amounting to disability (see AR 635–40)) that interferes with assignment or with performance of duty, when so disposed as indicated in *a*, below.

a. This condition is a deeply ingrained maladaptive pattern of behavior of long duration that interferes with the soldier’s ability to perform duty. (Exceptions: combat exhaustion and other acute situational maladjustments.) The diagnosis of personality disorder must have been established by a psychiatrist or doctoral-level clinical psychologist with necessary and appropriate professional credentials who is privileged to conduct mental health evaluations for the DOD components. It is described in the Diagnostic and Statistical Manual (DSM-IV) of Mental Disorders, 4th edition.

b. Commanders will not take action prescribed in this chapter in lieu of disciplinary action solely to spare a soldier who may have committed serious acts of misconduct for which harsher penalties may be imposed under the UCMJ.

c. Separation because of personality disorder is authorized only if the diagnosis concludes that the disorder is so severe that the soldier's ability to function effectively in the military environment is significantly impaired. Separation for personality disorder is not appropriate when separation is warranted under chapters 4, 5, 7, 9, 10, 11, 13, 14, 15, or 18 of this regulation; AR 380-67; or AR 635-40.

d. Nothing in this paragraph precludes separation of a soldier who has such a condition for other reasons authorized by this regulation.

e. Separation processing may not be initiated under this paragraph until the soldier has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. (See para 1-16.)

f. When it has been determined that separation under this paragraph is appropriate, the unit commander will take the actions specified in the notification procedure. (See chap 2, sec I.)

g. For separation authority, see paragraph 1-19.

h. The service of a soldier separated per this paragraph will be characterized as honorable unless an entry-level separation is required under chapter 3, section III. Characterization of service under honorable conditions may be awarded to a soldier who has been convicted of an offense by general court-martial or who has been convicted by more than one special court-martial in the current enlistment, period of obligated service, or any extension thereof.

5-14. Concealment of arrest record

a. *Policy.* A soldier who concealed an arrest record (not followed by a civil court conviction and not reflecting charges pending at the time of enlistment) for any juvenile or adult offense and such concealment does not amount to a fraudulent entry (see chap 7) may be separated. Separation is based on the false statements made in enlistment documents regarding the existence of an arrest record. In determining whether discharge is appropriate, the following will be considered:

(1) Concealing a pattern of arrests strongly suggests that the soldier was intentionally attempting to mislead recruiting officials regarding enlistment eligibility. The pattern may include misdemeanors and lesser offenses in addition to a felony.

(2) The age of the individual when enlisted, when arrested, and the period of time that elapsed since the arrest.

(3) The nature and the circumstances surrounding the arrests.

(4) The nature of the soldier's service since enlistment.

b. *Discharge authority* Commanders specified in paragraph 1-19 will direct discharge or retention of the soldier. When retention is authorized, DA Form 2-1 will be annotated to reflect that concealment of the arrest has been waived. After waiver, no further action will be taken.

c. *Evidence.* When information is received which indicates the soldier may have concealed an arrest record, an investigation into the circumstances is required. From this investigation, a decision to discharge or retain can be made. To prove an arrest record as required in this paragraph, bona fide evidence must be obtained from the appropriate law enforcement agency. A typical example of bona fide evidence includes a completed DA Form 3286 (Statement for Enlistment) or other evidence that clearly shows the individual concealed an arrest record.

d. *Notification procedure.* The notification procedure will be used. (See chap 2, sec I.)

e. *Characterization of service or description of separation.* (See para 5-5.)

5-15. Early release of Reserve Component personnel serving AGR tours under 10 USC 12301(d)

a. *General.* USAR or ARNGUS AGR soldiers serving tours under 10 USC 12301(d) may be released from active duty for the convenience of the Government, prior to completion of their AGR tour under the following circumstances:

(1) AGR soldiers may be voluntarily released from active duty, at their request, when such release is fully justified and determined to be in the best interest of the Army. This provision does not apply to USAR AGR soldiers denied continued service under the Qualitative Management Program (QMP). (See chap 19.) However, those soldiers may request voluntary discharge/release from active duty (REFRAD) in accordance with paragraph 19-13.

(2) AGR soldiers serving on an initial tour as recruiters (that is, are on an initial AGR tour having entered the AGR program for the purpose of recruiting) may be involuntarily released from active duty when a determination has been made that they are unqualified, ineffective, or unsuitable for continued recruiting duty, and that early release is in the best interest of the Government.

b. *Notification.* The notification procedure (see chap 2, sec I) will be used for soldiers involuntarily released from active duty under this paragraph. However, the procedure for requesting an administrative board (see para 2-2c(5)) is not applicable.

c. *Characterization of service.* Soldiers released from active duty under this paragraph will be awarded a characterization of service of honorable.

d. *Authority.* Notwithstanding the provisions of paragraph 1-19, only the Chief, National Guard Bureau; the Chief,